

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
WILMINGTON DIVISION**

In Re:

**CASE NO. 15-00544-5-SWH
CHAPTER 13**

**MICHAEL ALLEN BURDETTE,
DEBTOR.**

**MOTION TO MODIFY CHAPTER 13 PLAN TO PAY
SECURED CLAIM OF INTERNAL REVENUE SERVICE DIRECT**

NOW COMES THE DEBTOR, through counsel, and hereby motion the Court to modify his Chapter 13 Plan of Reorganization, and in support thereof allege the following:

1. Debtor filed for chapter 13 relief on February 2, 2015.
2. Debtor's plan was confirmed on August 30, 2016 providing for payments of:

\$1,500.00 per month for 12 months, then, \$3,000.00 per month for 24 months, then, \$3,700.00 per month for 24 months, said payments totaling \$178,800.00.
3. To date debtor has paid in a total of \$92,100.00.
4. Since confirmation of debtor's plan, debtor has incurred post-petition taxes for tax year 2015 in the amount of \$10,914.00 and for tax year 2016 in the amount of \$7,452.00, in accordance with the amended proof of claim filed by the Internal Revenue Service on November 15, 2017, Claim #2-6, which post-petition taxes require debtor to pay an additional amount of \$19,836 into the chapter 13 plan in order to complete the plan and obtain a discharge of debt.
5. Since filing, debtor has obtain a mortgage loan commitment from Alpha Mortgage Corporation ("mortgage lender"), as set out in the debtor's motion to Incur debt, DE# 36, which motion was granted by the Court on January 2, 2018.
6. The mortgage lender requires a first lien on real property belonging to debtor, which property is presently subject to a tax lien in favor of the United States Department of the Treasury/Internal Revenue Service, as recorded in 12M12537 with the Mecklenburg County Clerk of Court and 13M863 as recorded with the New Hanover County Clerk of Court, the balance of the secure claim being \$54,914.13 plus interest at 3.0% from February 1, 2018.

7. Debtor desires to modify his plan in order to pay the secured claim of the United States Department of the Treasury direct in complete satisfaction of its tax lien to assure mortgage lender of its 1st lien status, and in order to provide for payment of the 2015 and 2016 post-petition taxes as follows:

To the Chapter 13 Trustee: 36 payments of \$2,558.00 followed by 1 payment of \$47,225 to the Chapter 13 Trustee;

To the Internal Revenue Service: 1 payment in the amount of \$54,914.00 with interest at 3.0% from February 1, 2018, said direct payment to constitute satisfaction in full of the Internal Revenue Service Tax Lien as recorded in 12M12537 with the Mecklenburg County Clerk of Court and 13M863 as recorded with the New Hanover County Clerk of Court.

8. The mortgage commitment to debtor constitutes an unexpected and substantial changes in circumstances which justify modification of debtor's plan.

9. Debtor's counsel requests additional attorney fees in the amount of \$450.00 for making this motion on debtor's behalf, to be paid direct.

WHEREFORE, Debtor prays that the Court modify the plan, and approve attorney fees as set out herein.

Dated: February 14, 2018

/s/Anthony L. Register
Anthony L. Register
Alley, Register & McEachern
701 North Fourth Street
Wilmington, North Carolina 28401
Telephone (910) 251-0103

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**MICHAEL ALLEN BURDETTE,
DEBTOR.**

Certificate of Service

The undersigned certifies that a copy of the foregoing Motion and Notice thereof has been sent to the following persons electronically:

Joseph A. Bledsoe III
Chapter 13 Trustee

and by United States 1st class mail at the following addresses:

Michael Allen Burdette
223 Oakleaf Drive
Wilmington, NC 28403

Internal Revenue Service
Office of Chief Counsel
Attn: Managing Agent
Alamance Building, Mail Stop 24
4905 Koger Blvd.
Greensboro, NC 27407-2734

United States Attorney
Attn: Managing Agent/Officer
Suite 800, Federal Building
310 New Bern Avenue
Raleigh, NC 27601-1461

Secretary of the Treasury
Attn: Managing Agent/Officer
1500 Pennsylvania Ave. N.W.
Washington, DC 20220

See attached mailing matrix

DATED: February 14, 2018

s/ Wendy J. Miller
Wendy J. Miller

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
WILMINGTON DIVISION**

In Re:

**CASE NO. 15-00544-5-SWH
CHAPTER 13**

**MICHAEL ALLEN BURDETTE,
DEBTOR.**

NOTICE OF MOTION

**TO: INTERNAL REVENUE SERVICE, JOSEPH A. BLEDSOE III, TRUSTEE, AND
OTHER PARTIES IN INTEREST**

NOTICE IS HEREBY GIVEN of the foregoing Motion to Modify Chapter 13 Plan filed simultaneously herewith by Anthony L. Register, attorney for debtor in the above-captioned case; and

FURTHER NOTICE IS HEREBY GIVEN that this Motion may be allowed provided no response is made by INTERNAL REVENUE SERVICE, JOSEPH A. BLEDSOE III, TRUSTEE, OR OTHER PARTIES IN INTEREST in writing to U.S. Bankruptcy Court, Clerk of Court, P.O. Box 791, Raleigh, NC 27602 within 21 days from the date of this Notice; and

FURTHER NOTICE IS HEREBY GIVEN that the Court may rule on this Motion without any further notice if no response is made and that a hearing and notice of a hearing will be held only if a response is made.

DATED: February 14, 2018

/s/Anthony L. Register
Anthony L. Register
Alley, Register & McEachern
701 North Fourth Street
Wilmington, North Carolina 28401
Telephone (910) 251-0103

Label Matrix for local noticing
0417-5
Case 15-00544-5-SWH
Eastern District of North Carolina
Raleigh
Wed Feb 14 13:27:07 EST 2018

Cape Fear Lending, Inc.
Attn: Managing Agent
PO Box 10960
Wilmington, NC 28404-0960

U. S. Bankruptcy Court
300 Fayetteville Street, 4th Floor
P.O. Box 791
Raleigh, NC 27602-0791

(p)INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY OPERATIONS
PO BOX 7346
PHILADELPHIA PA 19101-7346

Cape Fear Lending Inc.
PO Box 10960
Wilmington, NC 28404-0960

North Carolina Dept. of Revenue
Attn: Bankruptcy
P.O. Box 1168
Raleigh, NC 27602-1168

Wells Fargo Bank
PO Box 5058 MAC P6053-021
Portland,, OR 97208-5058

Anthony L. Register
Alley, Register & McEachern
701 N. 4th Street
Wilmington, NC 28401-3415

Joseph A. Bledsoe III
PO Box 1618
New Bern, NC 28563-1618

Michael Allen Burdette
223 Oakleaf Dr.
Wilmington, NC 28403-4543

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Internal Revenue Service
Attn: Bankruptcy
P.O. Box 21126
Philadelphia, PA 19114

End of Label Matrix	
Mailable recipients	9
Bypassed recipients	0
Total	9